To:	HAZEL MAE PANGAN(ipdocket@grsm.com)
Subject:	U.S. Trademark Application Serial No. 98132966 - JET LAG - - IRHE
Sent:	March 26, 2025 03:22:15 PM EDT
Sent As:	tmng.notices@uspto.gov

Attachments

United States Patent and Trademark Office (USPTO)
Office Action (Official Letter) About Applicant's Trademark Application

U.S. Application Serial No. 98132966

Mark: JET LAG

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Applicant: Summer Fridays, LLC

Reference/Docket No. IRHE

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SUBSEQUENT FINAL OFFICE ACTION

Issue date: March 26, 2025

INTRODUCTION

This Office action is in response to applicant's communication filed on March 6, 2025.

In a previous Office action(s) dated September 6, 2024, the trademark examining attorney finally refused registration of the applied-for mark based on the following: pursuant to Trademark Act §2(d) for a likelihood of confusion with a registered mark. In addition, applicant was required to satisfy the following requirement(s): amend the identification of goods.

Based on applicant's response, the trademark examining attorney notes that the following requirement(s) have been satisfied: Amended Identification of Goods Required. *See* TMEP §§713.02, 714.04.

Further, the trademark examining attorney maintains and continues the final refusal in the summary of issues below. *See* 37 C.F.R. §2.63(b); TMEP §714.04.

SUMMARY OF ISSUES MADE FINAL that applicant must address:

- Section 2(d) Refusal - Likelihood of Confusion - Maintained and Continued

SECTION 2(d) REFUSAL - LIKELIHOOD OF CONFUSION - MAINTAINED AND CONTINUED

In the Request for Reconsideration dated March 6, 2025, applicant raises the new argument that no likelihood of confusion exists because (1) applicant owns a prior registration for a substantially similar or identical mark for identical or identical in part goods and/or services to those in the application, and (2) such registration has co-existed with the cited registration. Applicant concludes there is no likelihood of confusion between the applied-for mark and registrant's mark; therefore, the trademark examining attorney should withdraw the Trademark Act Section 2(d) refusal.

However, in *In re Strategic Partners, Inc.*, 102 USPQ2d 1397, 1399-1400 (TTAB 2012), the Trademark Trial and Appeal Board only reversed a Section 2(d) refusal based on an applicant's prior registration for the following unique set of facts: (1) the marks in applicant's prior registration and application were virtually identical ("no meaningful difference" existed between them, such that they were "substantially similar"); (2) the goods were identical in part; and (3) the prior registration had co-existed for at least five years with the cited registration (both being more than five years old and thus immune from attack on likelihood of confusion grounds). *See* TMEP §1207.01. The Board acknowledged these facts constituted a "unique situation," such that an applicant's prior registration would generally need to fit within these parameters to overcome a Section 2(d) refusal. *In re Strategic Partners, Inc*., 102 USPQ2d at 1400; *see In re USA Warriors Ice Hockey Program, Inc*., 122 USPQ2d 1790, 1793-94 (TTAB 2017); TMEP §1207.01.

In this case, by contrast, applicant's prior registration does not correspond to the facts set forth in *In re Strategic Partners, Inc*. *See* TMEP §1207.01. Specifically, although applicant's marks are partially similar, they are not virtually identical. Indeed, here, the applied-for mark and the registered mark are identical. On the other hand, applicant's prior registration features additional wording that could, in the minds of consumers, distinguish the registered mark from applicant's prior registration. In other words, the applied-for mark is more similar to the registered mark than it is to applicant's previously registered mark. Thus, applicant's prior registration does not obviate the Section 2(d) refusal. *See, In re Inn at St. John's LLC*, 126 USPQ2d 1742, 1748 (TTAB 2018) (finding applicant's over five-year-old prior registration of a partially similar mark was a neutral factor in the §2(d) analysis, because the applied-for mark was more similar to the cited registered mark than applicant's previously registered mark).

Accordingly, the FINAL refusal pursuant to Trademark Act §2(d) is maintained and continued.

Although applicant's mark has been refused registration, applicant may respond to the refusal(s) by submitting evidence and arguments in support of registration.

RESPONSE GUIDELINES

Response deadline. File a request for reconsideration of this final Office action and/or a timely appeal to the Trademark Trial and Appeal Board (TTAB) within three months of the "Issue date" below to avoid abandonment of the application. Review the Office action and respond using one of the links

below to the appropriate electronic forms in the "How to respond" section below.

Request an extension. For a fee, applicant may request one three-month extension of the response deadline prior to filing a response and/or an appeal. The request must be filed within three months of the "Issue date" below. If the extension request is granted, the USPTO must receive applicant's response and/or appeal within six months of the "Issue date" to avoid abandonment of the application.

How to respond. File a **request form for reconsideration of this final Office action** that fully resolves all outstanding requirements and/or refusals and/or file a timely **appeal form to the Trademark Trial and Appeal Board** with the required fee(s). Alternatively, applicant may file a **request form for an extension of time to file a response** for a fee.

/Samantha Cruzado/
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RESPONSE GUIDANCE

- **Missing deadline to responding to this letter will cause the application to abandon.** A response, appeal, or extension request must be received by the USPTO before 11:59 p.m. **Eastern Time** of the last day of the response deadline. Trademark Electronic Application System (TEAS) and Electronic System for Trademark Trials and Appeals (ESTTA) system availability could affect an applicant's ability to timely respond. For help resolving technical issues with TEAS, email TEAS@uspto.gov.

- **Responses signed by an unauthorized party** are not accepted and can **cause the application to abandon**. If applicant does not have an attorney, the response must be signed by the individual applicant, all joint applicants, or someone with legal authority to bind a juristic applicant. If applicant has an attorney, the response must be signed by the attorney.

- If needed, **find contact information for the supervisor** of the office or unit listed in the signature block.

United States Patent and Trademark Office (USPTO)

USPTO OFFICIAL NOTICE

Office Action (Official Letter) has issued
on March 26, 2025 for
U.S. Trademark Application Serial No. 98132966

A USPTO examining attorney has reviewed your trademark application and issued an Office action. You must respond to this Office action to avoid your application abandoning. Follow the steps below.

(1) Read the Office action. This email is NOT the Office action.

(2) Respond to the Office action by the deadline using the USPTO electronic filing system. Your response or appeal, if applicable, must be received by the USPTO on or before 11:59 p.m. **Eastern Time** of the last day of the response period. Otherwise, your application will be abandoned. See the Office action itself regarding how to respond.

(3) Direct general questions about using USPTO electronic forms, the USPTO website, the application process, the status of your application, and whether there are outstanding deadlines to the Trademark Assistance Center (TAC).

After reading the Office action, address any question(s) regarding the specific content to the USPTO examining attorney identified in the Office action.

GENERAL GUIDANCE

- **Check the status of your application periodically** in the Trademark Status & Document Retrieval (TSDR) database to avoid missing critical deadlines.

- **Update your correspondence email address** to ensure you receive important USPTO notices about your application.

- **Beware of trademark-related scams**. Protect yourself from people and companies that may try to take financial advantage of you. Private companies may call you and pretend to be the USPTO or may send you communications that resemble official USPTO documents to trick you. We will never request your credit card number or social security number over the phone. Verify the correspondence originated from us by using your serial number in our database, TSDR, to confirm that it appears under the "Documents" tab, or contact the Trademark Assistance Center.

- **Hiring a U.S.-licensed attorney.** If you do not have an attorney and are not required to

have one under the trademark rules, we encourage you to hire a U.S.-licensed attorney specializing in trademark law to help guide you through the registration process. The USPTO examining attorney is not your attorney and cannot give you legal advice, but rather works for and represents the USPTO in trademark matters.